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Security Council

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Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya

Letter dated 20 October 2011 from the Permanent Representative of Canada to the United Nations addressed to the Chair of the Committee

I am addressing the present letter to you in your capacity as Chair of the Security Council Committee established pursuant to resolution 1970 (2011) concerning Libya. I am forwarding a copy of Canada's report on the implementation of Security Council resolutions 1970 (2011), 1973 (2011) and 2009 (2011) (see annex).

Canada is committed to continue working with the Committee.

(*Signed*) Guillermo E. R[illegible]hchynski
Ambassador
Permanent Representative

11-61701 (E) 131211

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Annex to the letter dated 20 October 2011 from the Permanent Representative of Canada to the United Nations addressed to the Chair of the Committee

Report of Canada on the implementation of measures decided by the Security Council in its resolutions 1970 (2011), 1973 (2011) and 2009 (2011)

In paragraph 25 of Security Council resolution 1970 (2011), the Council called upon all Member States to report to the Committee, within 120 days of the date of adoption of the resolution, on the steps they have taken to implement paragraphs 9, 10, 15 and 17 of the resolution.

Canada wishes to inform the Security Council that it has implemented all of the Council's decisions in resolution 1970 (2011) through the application of existing measures in the Immigration and Refugee Protection Act and the Export and Import Permits Act, and through the imposition of the Regulations Implementing the United Nations Resolutions on Libya (SOR/2011-51) (the "Regulations"), which have been in force since 27 February 2011 and twice amended to reflect modifications in Security Council decisions. The United Nations Act enables the Canadian Government to give effect to decisions passed by the Security Council that are binding upon States pursuant to Article 25 of the Charter of the United Nations.

The Regulations may be found at: http://laws-lois.justice.gc.ca/eng/regulations/SOR-2011-51/FullText.html.

Subsequent amendments, known as the Regulations Amending the Regulations Implementing the United Nations Resolutions on Libya and Taking Special Economic Measures (SOR/2011-198), are in force but not yet consolidated into the online version of the Regulations and may be found at: http://www.international.gc.ca/sanctions/libya_amended_regs_modifiant_libye.aspx?lang=eng.

Further information relating to Canada's sanctions on Libya may be found at the following link: http://www.international.gc.ca/sanctions/libya-libye.aspx?lang=eng&menu_id=48.

Implementation

Specific implementation of the measures contained in resolution 1970 (2011), and related resolutions, is accomplished as set out below:

Arms embargo and enforcement

Paragraph 9 of resolution 1970 (2011)

> *Decides* that all Member States shall immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to the Libyan Arab Jamahiriya, from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned, and technical assistance, training, financial or other assistance, related to military activities

or the provision, maintenance or use of any arms and related materiel, including the provision of armed mercenary personnel whether or not originating in their territories, and decides further that this measure shall not apply to:

(a) Supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee established pursuant to paragraph 24 below;

(b) Protective clothing, including flak jackets and military helmets, temporarily exported to the Libyan Arab Jamahiriya by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only; or

(c) Other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the Committee;

Pursuant to section 3 of the Regulations, all persons in Canada and all Canadians abroad are prohibited from exporting or otherwise supplying arms and related material to Libya. Section 4(1) of the Regulations additionally prohibits masters of Canadian vessels and operators of Canadian aircraft from transporting arms and related material into Libya from Canada. Finally, section 5 of the Regulations prohibits the transfer into Libya of any technical, financial or other assistance relating to military activities or arms and related material. As for the exceptions laid out in paragraph 9 of resolution 1970 (2011), section 17 of the Regulations allows non-lethal military equipment intended for protective use as well as protective clothing temporarily exported by international personnel.

In addition, pursuant to section 9 of the Regulations, all persons in Canada and all Canadians outside Canada are prohibited from doing anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited by sections 3, 4(1) and 5.

Paragraph 10 of resolution 1970 (2011)

Decides that the Libyan Arab Jamahiriya shall cease the export of all arms and related materiel and that all Member States shall prohibit the procurement of such items from the Libyan Arab Jamahiriya by their nationals, or using their flagged vessels or aircraft, and whether or not originating in the territory of the Libyan Arab Jamahiriya;

Pursuant to section 6 of the Regulations, all persons in Canada and all Canadians abroad are prohibited from importing or otherwise procuring arms and related material from Libya. Section 4(2) of the Regulations additionally prohibits masters of Canadian vessels and operators of Canadian aircraft from transporting arms and related material into Canada from Libya.

In addition, pursuant to section 9 of the Regulations, all persons in Canada and all Canadians outside Canada are prohibited from doing anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited by sections 4(2) and 6.

Paragraph 13 of resolution 1973 (2011)

Decides that paragraph 11 of resolution 1970 (2011) shall be replaced by the following paragraph: "Calls upon all Member States, in particular States of the region, acting nationally or through regional organizations or arrangements, in order to ensure strict implementation of the arms embargo established by paragraphs 9 and 10 of resolution 1970 (2011), to inspect in their territory, including seaports and airports, and on the high seas, vessels and aircraft bound to or from the Libyan Arab Jamahiriya, if the State concerned has information that provides reasonable grounds to believe that the cargo contains items the supply, sale, transfer or export of which is prohibited by paragraphs 9 or 10 of resolution 1970 (2011) as modified by this resolution, including the provision of armed mercenary personnel, calls upon all flag States of such vessels and aircraft to cooperate with such inspections and authorises Member States to use all measures commensurate to the specific circumstances to carry out such inspections";

The Canada Border Services Agency inspects outbound shipments to Libya for arms and related materials.

Operation Unified Protector was launched on 22 March 2011 as a North Atlantic Treaty Organization (NATO) maritime mission enforcing the arms embargo on Libya, and was created under resolution 1970 (2011) and amended by resolutions 1973 (2011) and 2009 (2011). Canada is one of the original members of the coalition engaged in enforcing this mandate under Operation Unified Protector. HMCS *Vancouver* was deployed to join the NATO-led coalition fleet enforcing the arms embargo on Libya in July, relieving HMCS *Charlottetown*. For most of her deployment, HMCS *Charlottetown* patrolled the waters immediately off Misrata, Libya, and conducted 313 hailings and five boardings of vessels of interest. Although the patrol regions were at times different, the taskings for HMCS *Vancouver* have been similar in terms of patrolling the embargo zone to gather information and ensuring that prohibited materiel does not enter Libya.

Travel ban

Paragraph 15 of resolution 1970 (2011)

Decides that all Member States shall take the necessary measures to prevent the entry into or transit through their territories of individuals listed in annex I of this resolution or designated by the Committee established pursuant to paragraph 24 below, provided that nothing in this paragraph shall oblige a State to refuse its own nationals entry into its territory;

Section 35 of the Immigration and Refugee Protection Act enables Canada to prevent the entry into or transit through its territory of the individuals designated by the Security Council. The Immigration and Refugee Protection Act also allows for the exceptions and exemptions to the travel ban in accordance with paragraph 16 of resolution 1970 (2011).

Asset freeze

Paragraph 17 of resolution 1970 (2011)

> *Decides* that all Member States shall freeze without delay all funds, other financial assets and economic resources which are on their territories, which are owned or controlled, directly or indirectly, by the individuals or entities listed in annex II of this resolution or designated by the Committee established pursuant to paragraph 24 below, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, and decides further that all Member States shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any individuals or entities within their territories, to or for the benefit of the individuals or entities listed in annex II of this resolution or individuals designated by the Committee;

The existing definition of "designated person" in section 1 of the Regulations is dynamic in that it incorporates the individuals and entities designated by the Security Council or the Committee.

Pursuant to section 7 of the Regulations, all persons in Canada and all Canadians abroad are prohibited from dealing in any property owned on 26 February 2011 by a designated person, making any financial transaction related to such dealings, or making any property or financial services available to a designated person. In addition, section 10 imposes upon a variety of financial institutions the obligation to determine whether they are in control of any property of designated person.

As decided under paragraph 15 of resolution 2009 (2011), specific provisions maintain a freeze on the assets of the Central Bank of Libya, the Libyan Arab Foreign Bank, the Libyan Investment Authority and the Libyan Africa Investment Portfolio still held by Canadians as of 16 September 2011 only, despite these entities no longer being subject to ongoing sanctions. More general exceptions to the asset freeze, laid out in paragraphs 19 and 21 of resolution 1970 (2011) and paragraph 16 of resolution 2009 (2011) and relating to, inter alia, basic subsistence and payments under prior contracts, are contained in sections 15, 15.1 and 16 of the Regulations.

In addition, pursuant to section 9 of the Regulations, all persons in Canada and all Canadians outside Canada are prohibited from doing anything that causes, assists or promotes, or is intended to cause, assist or promote, any act or thing prohibited by section 7.

Protection of civilians

Paragraph 4 of resolution 1973 (2011)

> *Authorizes* Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory, and requests the Member States concerned to inform the Secretary-General immediately of the measures they take pursuant

to the authorization conferred by this paragraph which shall be immediately reported to the Security Council;

Air operations to enforce the protection of civilians mandate were initiated on 19 March 2011 by a coalition joint task force led by the United States Africa Command under Operation Odyssey Dawn. The North Atlantic Council accepted responsibility for the entire military operation in Libya under resolution 1973 (2011), and the transfer of command authority over engaged air assets to the Commander, Combined Joint Task Force Operation Unified Protector (Lieutenant-General Charles Bouchard of Canada), was completed on 31 March 2011. Maritime operations conducted under this mandate followed a similar path, whereby HMCS *Charlottetown* and her successor HMCS *Vancouver* eventually came under the responsibility of NATO under the auspices of Operation Unified Protector. On 12 May 2011, when it was attacked by shore-based artillery, HMCS *Charlottetown* became the first Canadian warship to face hostile fire since the end of the Korean War. She and her successor also provided escort support and area security for vulnerable vessels such as minesweepers and replenishment ships, and on several occasions led the surface action groups defending Misrata and other civilian populated areas against attacks by pro-regime forces.

No-fly zone

Paragraphs 6 and 9 of resolution 1973 (2011)

6. *Decides* to establish a ban on all flights in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians;

9. *Calls upon* all Member States, acting nationally or through regional organizations or arrangements, to provide assistance, including any necessary overflight approvals, for the purposes of implementing paragraphs 4, 6, 7 and 8 above;

Air operations to enforce the no-fly zone were initiated on 19 March 2011. Although Canada's contribution to Operation Unified Protector has largely come under the protection of civilians or arms embargo mandates, Canadian air assets have conducted missions to enforce the no-fly zone through a number of sorties. In addition to airspace denial, Canadian aircraft have been employed in surveillance and identification tasks as part of the no-fly zone mandate. Working with its NATO allies, as well as with non-traditional coalition partner countries, Canada has helped to ensure that the no-fly zone mandated by resolutions 1973 (2011) and 2009 (2011) has fulfilled its purpose of protecting civilians.